

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMIE S., on behalf of the class,

Plaintiffs,

v.

Case No. 01-C-928

MILWAUKEE PUBLIC SCHOOLS, et. al.,

Defendants.

ORDER

On April 7, 2008, the plaintiffs and the Department of Public Instruction (“DPI”) defendants filed a joint motion for approval of a proposed settlement agreement. (Docket No. 431.) Following a status conference, the court permitted the Milwaukee Public Schools (“MPS”) defendants until May 1, 2008 in which to respond to the motion to approve the proposed settlement agreement and permitted DPI and the plaintiffs to reply no later than May 15, 2008. (Docket No. 442.) On May 15, 2008, the plaintiffs and DPI filed a joint reply that is 37 pages in length. (Docket No. 456.) According to Civil Local Rule 7.1(f), reply briefs are limited to 15 pages. Therefore, on May 21, 2008 MPS filed a motion to either strike the reply or to permit it to sur-reply. (Docket No. 465.) MPS argues that a sur-reply is necessary because DPI and the plaintiffs improperly raise new arguments in their reply.

DPI and the plaintiffs could have each filed separate replies, thus totaling 30 pages. However, rather than doing this, they chose to file a joint reply, and therefore the court regards the joint reply as being 7 pages too long. Whether 7 or 22 pages too long, nonetheless, the reply does not comply with Civil L.R. 7.1(f). However, the court does not regard striking the reply as the appropriate remedy. Rather, without deciding whether or not the plaintiffs and DPI raised new

arguments for the first time in reply, the court shall grant MPS' request to file a sur-reply. MPS does not indicate how much time it needs to file a sur-reply. However, as was made clear during the April 17, 2008 status conference, time is of the essence in light of the fact that whether or not this proposed settlement shall be preliminarily approved by the court will dramatically affect Phase III of this trial and the related discovery that must occur in preparation for trial. MPS has waited six days before filing its motion to strike, when the length of the reply brief should have been immediately apparent. Therefore, the court shall permit MPS to file a sur-reply no later than May 27, 2008.

IT IS THEREFORE ORDERED that MPS' motion to strike is **denied**. (Docket No. 465.) MPS motion to file a sur-reply is **granted**. (Docket No. 465.) MPS shall file its sur-reply no later than **May 27, 2008**.

Dated at Milwaukee, Wisconsin this 22nd day of May 2008.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge